

CHAPTER NO. 167

HOUSE BILL NO. 3289

By Representative Baird

Substituted for: Senate Bill No. 3247

By Senator McNally

AN ACT to amend Chapter 101 of the Private Acts of 1998; and any other acts amendatory thereto, relative to the charter of the City of Jellico.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Chapter 101 of the Private Acts of 1998, and any other acts amendatory thereto, is amended by deleting such chapter in its entirety and substituting instead the following to be the charter of the City of Jellico:

ARTICLE I

CHARTER, DEFINITIONS, CITY LIMITS, CORPORATE POWERS

SECTION 1.01. Act constitutes City Charter. This act shall constitute the whole charter of the City of Jellico, Tennessee, repealing and replacing the charter provided by Chapter 101 of the Private Acts of 1998, and subsequent acts amending such charter. The City of Jellico in the County of Campbell, and the inhabitants thereof shall continue, and are hereby constituted and declared a body politic and corporate by the name and style of Jellico, Tennessee, and by that name shall have perpetual succession, may sue and be sued, plead and be impleaded, in all the courts of law and equity, and in all actions whatsoever, and may have and use a common seal and change it at pleasure.

SECTION 1.02. Definitions. As used in this charter the following words and terms shall have the following meanings:

(1) "City" shall mean the City of Jellico, Tennessee;

(2) "Board" and "Board of Mayor and Aldermen" shall mean the legislative body of the city, which shall be composed of the mayor, within the limitations and except for the purposes prescribed in this charter, and six (6) aldermen elected as provided in this charter, and any incumbent mayor and aldermen until the expiration of their current terms of office;

(3) "Nonpartisan" shall mean without any designation of candidates as members or candidates of any state or national political party or organization;

(4) "At large" shall mean the entire city, as distinguished from representation by wards or other districts;

(5) "Elector" shall mean a person qualified under the general election laws of the state who is domiciled within the City of Jellico, or who is a bona fide owner of real property within the city limits.

(6) The masculine shall include the feminine, and the singular shall include the plural and vice versa, except when the contrary intention is manifest.

SECTION 1.03. City limits. The boundaries of the city shall be those presently constituted, including all annexations made pursuant to general law.

SECTION 1.04. Corporate Powers. The city shall have power to:

(1) Assess, levy and collect taxes for all general and special purposes on all subjects or objects of taxation, and privileges taxable by law for state, county or municipal purposes;

(2) Adopt classifications of the subjects and objects of taxation that are not contrary to law;

(3) Make special assessments for local improvements;

(4) Contract and be contracted with;

(5) Incur debts by borrowing money or otherwise, and give any appropriate evidence thereof, in the manner hereinafter provided;

(6) Issue and give, sell, pledge or in any manner dispose of, negotiable or nonnegotiable interest-bearing or noninterest bearing bonds, warrants, promissory notes or orders of the municipality, upon the credit of the municipality or solely upon the credit of specific property owned by the municipality or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the municipality, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two (2) of more such credits;

(7) Expend the money of the municipality for all lawful purposes;

(8) Acquire or receive and hold, maintain, improve, sell, lease, mortgage, pledge or otherwise dispose of property, real or personal, and any estate or interest therein, within or without the municipality or state;

(9) Condemn property, real or personal, or any easement, interest, or estate or use therein, either within or without the municipality, for present or future public use; the condemnation shall be effected in accordance with the terms and provisions of Title 29, Chapter 16, or in any other manner provided by law;

(10) Take and hold property within or without the municipality or state upon trust, and administer trusts for the public benefit;

(11) Acquire, construct, own, operate and maintain, or sell, lease, mortgage, pledge or otherwise dispose of public utilities or any estate or interest therein, or any other utility of service to the municipality, its inhabitants, or any part thereof, and further, may issue debt for these purposes under the Local Government Public Obligations Act, compiled in Title 9, Chapter 21;

(12) Grant to any person, firm, association or corporation (including the municipality) franchises for public utilities and public services to be furnished the municipality and those therein. The power to grant franchises embraces the power to grant exclusive franchises. Whenever an exclusive franchise is granted, it shall be exclusive not only as against any other person, firm, association, or corporation, but also against the municipality itself. Franchises may be granted for a period of twenty-five (25) years or less, but not longer. The board may prescribe, in each grant of a franchise, the rate, fares, charges and regulations that may be made by the grantee of the franchise in accordance with state and federal law. Franchises may by their terms apply to the territory within the corporate limits of the municipality at the date of the franchises, and as the corporate limits may be enlarged, and to the existing streets, alleys and thoroughfares that thereafter may be opened;

(13) Make contracts with any person, firm, association or corporation for public utilities, public services to be furnished the municipality and those therein. The power to make contracts embraces the power to make exclusive contracts. When an exclusive contract is entered into, it shall be exclusive against any other person, firm, association or corporation. These contracts may be entered into for a period of twenty-five (25) years or less, but not longer. The board may prescribe in each such contract entered into the rates, fares, charges, and regulations that may be made by the person, firm, association or corporation with whom the contract is made. Such contracts may by their terms apply to the territory within the corporate limits of the municipality at the date of the contract, and as the corporate limits may be enlarged, and to the then existing streets, alleys and thoroughfares and to any other streets, alleys and other thoroughfares that thereafter may be opened;

(14) Prescribe reasonable regulations regarding the construction, maintenance, equipment, operation and service of public utilities, compel reasonable extensions of facilities for these services, and assess fees for the use of, or impact upon, these services. Nothing herein shall be construed to permit the alteration or impairment of any of the terms or provisions of any exclusive franchise granted or of any exclusive contract entered into under subdivisions (12) and (13) hereof;

(15) Establish, open, relocate, vacate, alter, widen, extend, grade, improve, repair, construct, reconstruct, maintain, light, sprinkle and clean public highways, streets, boulevards, parkways, sidewalks, alleys, parks, public grounds, public facilities, libraries and squares, wharves, bridges, viaducts, subways, tunnels, sewers and drains within or without the corporate limits, regulate their use within the corporate limits, assess fees for the use of, or impact upon, such property and facilities, and take and appropriate property therefor under the provisions of §§7-31-107 - 7-31-111 and 29-16-114, or any other manner provided by general laws;

(16)

(A) Construct, improve, reconstruct and reimprove by opening, extending, widening, grading, curbing, guttering, paving, graveling, macadamizing, draining or otherwise improving any streets, highways, avenues, alleys or other public

places within the corporate limits, and assess a portion of the cost of these improvements on the property abutting on, or adjacent to, these streets, highways or alleys under, and as provided by, Title 7, Chapters 32 and 33; and

(B) This subdivision (16) may not be construed to prohibit the municipality from installing and maintaining a traffic control signal within its corporate limits, and the municipality is expressly so authorized; provided, that no device shall be installed to control traffic on a state highway without the approval of the commissioner of transportation;

(17) Assess against abutting property within the corporate limits the cost of planting shade trees, removing from sidewalks all accumulations of snow, ice and earth, cutting and removing obnoxious weeds and rubbish, street lighting, street sweeping, street sprinkling, street flushing, and street oiling, the cleaning and rendering sanitary or removing, abolishing and prohibiting of closets and privies, in such manner as may be provided by general law or by ordinance of the board;

(18) Acquire, purchase, provide for, construct, regulate and maintain and do all things relating to all marketplaces, public buildings, bridges, sewers and other structures, works and improvements;

(19) Collect and dispose of drainage, sewage, ashes, garbage, refuse or other waste, or license and regulate their collection and disposal, and the cost of collection, regulation or disposal may be funded by taxation, special assessment to the property owner, user fees or other charges;

(20) License and regulate all persons, firms, corporations, companies and associations engaged in any business, occupation, calling, profession or trade not prohibited by law;

(21) Impose a license tax upon any animal, thing, business, vocation, pursuit, privilege or calling not prohibited by law;

(22) Define, prohibit, abate, suppress, prevent and regulate all acts, practices, conduct, businesses, occupations, callings, trades, uses of property and all other things whatsoever detrimental, or liable to be detrimental, to the health, morals, comfort, safety, convenience or welfare of the inhabitants of the municipality, and exercise general police powers;

(23) Prescribe limits within which business occupations and practices liable to be nuisances or detrimental to the health, morals, security or general welfare of the people may lawfully be established, conducted or maintained;

(24) Inspect, test, measure and weigh any article for consumption or use within the municipality, and charge reasonable fees therefor, and provide standards of weights, tests and measures, in accordance with general law;

(25) Regulate the location, bulk, occupancy, area, lot, location, height, construction and materials of all buildings and structures, and

inspect all buildings, lands and places as to their condition for health, cleanliness and safety, and when necessary, prevent their use and require any alteration or changes necessary to make them healthful, clean or safe;

(26) Provide and maintain charitable, educational, recreative, curative, corrective, detentive, or penal institutions, departments, functions, facilities, instrumentalities, conveniences and services;

(27) Purchase or construct, maintain and establish a jail for the confinement of persons who violate laws within the corporate limits, or contract with the county to keep these persons;

(28)

(A) Enforce any ordinance, rule or regulation by fines, forfeitures and penalties, and by other actions or proceedings in any court of competent jurisdiction; and

(B) Provide by ordinance for court costs;

(29) Establish a city court and the office of city judge and determine the jurisdictional powers, authority and qualifications thereof in accordance with, and pursuant to, Tennessee Code Annotated, Section 6-4-301;

(30) Establish schools, determine the necessary boards, officers and teachers required therefor, and fix their compensation, purchase or otherwise acquire land for, or assess a fee for use of, or impact upon, schoolhouses, playgrounds and other purposes connected with the schools, purchase or erect all necessary buildings and do all other acts necessary to establish, maintain and operate a complete educational system within the municipality;

(31) Regulate, tax, license or suppress the keeping or going at large of animals within the municipality, impound them, and in default of redemption, sell or euthanize them;

(32) Call elections as herein provided; and

(33) Have and exercise all powers that now or hereafter it would be competent for this charter specifically to enumerate, as fully and completely as though these powers were specifically enumerated.

ARTICLE II

BOARD OF MAYOR AND ALDERMEN, ELECTIONS

SECTION 2.01. Election of Mayor and Aldermen.

(a) The Board of Mayor and Aldermen. The power of the government of the City of Jellico shall be vested in a board of mayor and aldermen consisting of the a mayor and six (6) aldermen who shall be elected at large to four-year terms of office.

(b) Qualifications. The mayor and aldermen shall be citizens of the United States, of the State of Tennessee, and of the City of Jellico. No person shall be eligible to the office of mayor or alderman who has not been a resident of the City of Jellico for one (1) year next preceding the election, and who is not at least twenty-one (21) years of age. Continuing residency in the city shall be a requirement for holding office. Any mayor or alderman who moves his residency from the city shall automatically vacate his or her office, and the vacancy shall be filled as prescribed by Section 2.05 of this charter.

(c) Elections.

(1) The terms of the mayor and six (6) aldermen elected in the April 2002 municipal election shall be extended to the first Thursday in December following the date of the general election held on the first Tuesday following the first Monday in November 2006, or until their successors are elected and qualified.

(2) On the date of the general election held on the first Tuesday after the first Monday in November 2006, there shall be elected a mayor and six (6) aldermen. The mayor shall be elected to a four-year term of office, which term shall expire on the first Thursday in December following the date of the general election held on the first Tuesday after the first Monday in November 2010, or when his successor is elected and qualified. The six (6) candidates for aldermen receiving the highest number of votes shall serve four-year terms of office, which terms shall expire on the first Thursday of December following the date of the general election on the first Tuesday after the first Monday in November 2010, or when his successors are elected and qualified.

(3) On the date of each and every general election held on the first Tuesday after the first Monday in November, in even-numbered years thereafter, there shall be held a municipal election, and the successors to the office of mayor and aldermen elected in those elections shall be elected to four-year terms of office. Their terms shall begin on the first Thursday in December following the election and end four (4) years thereafter, or when their successors are elected and qualified.

SECTION 2.02. City Board--composition; salaries; meetings; quorum.

(a) The mayor and six (6) aldermen elected under this charter (and the incumbent mayor and aldermen until the expiration of their current terms of office) shall compose the board, in which is vested all corporate, legislative and other powers of the city.

(b) The salaries of the mayor and aldermen shall be as established from time to time by ordinance; provided, however, if such compensation is altered, the altered salary shall not become effective until after the next election of city officials. The mayor, aldermen, and employees or agents of the city shall be reimbursed for actual and necessary expenses incurred in the conduct of their official duties;

(c) The board shall meet regularly at least once every month at the times and places prescribed by ordinance. The board may meet in special session on written notice of the mayor or of any three (3) aldermen served on the other members of the board personally at least seventy-two (72) hours in advance of the meeting. The board shall have the authority in public assembled session, with a quorum present, to exercise all expressly granted or implied powers;

(d) Four (4) aldermen or the mayor and three (3) aldermen shall constitute a quorum; and

(e) The board may, by ordinance, adopt rules and bylaws to govern the conduct of its business, including procedures and penalties for compelling the attendance of absent members. The board may subpoena and examine witnesses and order the production of books and papers.

SECTION 2.03. Mayor as presiding officer; veto power, etc.

(a) The mayor shall preside at the meetings of the board, but he shall also have a voice and the right to introduce ordinances and resolutions on the agenda for recommendation and consideration by the board without stepping down from his position as presiding officer. However, the mayor shall vote only in case of a tie. The mayor shall be recognized as the ceremonial head of the city, shall be the officer to accept process against the city, and shall perform other duties imposed upon him by ordinance, not inconsistent with this charter.

(b) The mayor shall have the power to veto ordinances passed by the board. That power must be exercised by the next regular meeting of the Board following the passage of the ordinance. The veto must be accompanied by a written message from the mayor and delivered to the board explaining the reasons for the veto. The veto shall not be effective unless it is delivered to the board no later than immediately preceding the call to order of the above prescribed meeting. The mayor's veto can be overridden by the affirmative vote of four (4) aldermen.

SECTION 2.04. Vice-mayor--election, duties. The candidate for alderman who receives the highest number of votes in each election shall become the vice-mayor; provided, however, that he shall have the right to reject the office of vice-mayor, in which case the board shall appoint a vice-mayor from among its membership. The vice-mayor shall perform the duties of the mayor during his absence or inability to act in the office of mayor, and shall fill out any unexpired term in the office of mayor. In the latter event, or in the event the office of vice-mayor should for any reason become vacant, the board shall select an alderman to serve the unexpired term of the vice-mayor.

SECTION 2.05. Vacancy in office of mayor or alderman; effect of malfeasance, etc.

(a) A vacancy shall exist if the mayor or aldermen resigns, dies, moves his residence from the city, is recalled, or is removed from office in accordance with the procedures established in Tennessee Code Annotated, Title 8, Chapter 47. The board shall by resolution, except in the case of a recall, declare a vacancy to exist for any of these reasons, and such finding shall be final.

(b) The board shall appoint a qualified person to fill a vacancy in the office of alderman for the remainder of the unexpired term. A vacancy in the office of mayor shall be filled as provided in Section 2.04.

SECTION 2.06. Recall of mayor and/or alderman. Any person holding the office of mayor or alderman of the city, whether by election, succession, or appointment to fill a vacancy, shall be subject to removal from office at a recall election in the manner provided in Tennessee Code Annotated, Section 2-5-151, except that, as allowed under subsection (j) of Section 2-5-151, the petition for recall must contain signatures equal in number to at least forty percent (40%) of the vote cast for the candidate for the office who received the highest number of votes in the preceding city election.

SECTION 2.07. City legislation--when ordinances necessary; required wording; readings required; emergency ordinances.

(a) Any action of the board having a regulatory or penal effect, relating to revenue or appropriation of money, awarding franchises, authorizing the borrowing of money, conveying or leasing or authorizing conveyance or lease of any lands of the city, or required to be done by ordinance under this charter or the general laws of the state, shall be done only by ordinance. Other actions of the board may be accomplished by resolutions or motions.

(b) Ordinances and resolutions shall be in written form before being introduced, and a copy shall be furnished to each member of the board in advance of the meeting at which introduced. The enacting clause of ordinances shall be "Be it ordained by the Board of Mayor and Aldermen of the City of Jellico". No action of the board shall be valid or binding unless approved by the affirmative vote of a majority of the board present at the meeting at which the vote was taken. Any ordinance which repeals or amends existing ordinances shall cite the sections or subsections repealed or amended. Every ordinance, except an emergency ordinance, must be approved on two (2) readings not less than one (1) week apart, and shall become effective after final approval unless its terms provide a later effective date. Only the caption of ordinances and resolutions are required to be read at each reading. Written copies of the ordinances shall be available for public review. Each resolution shall become effective when adopted unless its terms provide otherwise.

(c) To meet a public emergency affecting life, health or property, an emergency ordinance may be adopted on two (2) readings on separate days and become effective immediately, by the affirmative votes of three (3) members of the board, if the ordinance contains a full statement of the facts creating the emergency. An emergency ordinance shall be effective for only ninety (90) days. Appropriations, revenues, franchises, levy of taxes, or special privileges shall not be passed as emergency ordinances.

(d) The original copies of ordinances, resolutions, contracts and other documents shall be filed and preserved by the city recorder.

ARTICLE III

ORGANIZATION AND PERSONNEL

SECTION 3.01. Organization of city government. The board by ordinance may establish, abolish, merge or consolidate offices, positions of employment, departments, and agencies of the city; may provide that the same person shall fill any number of offices and positions of employment; and may transfer or change the function and duties of offices, positions of employment, department, and agencies of the city and may prescribe the functions of all departments, offices and agencies not inconsistent with this charter. Provided, however, that the number of members of the board shall not be changed, and the offices of mayor and city recorder shall not be abolished.

SECTION 3.02. Administrative duties of the Mayor. The mayor shall be the chief executive officer of the municipality and shall preside at meetings of the board; he shall communicate any information needed, and recommend measures the mayor deems expedient to the board; he shall countersign checks and drafts drawn upon the treasury by the treasurer and sign all contracts to which the municipality is a party; shall make appointments to boards and commissions as authorized by law; employ, promote, discipline, suspend and discharge all employees and department heads, in accordance with personnel policies and procedures, if any, adopted by the board; the mayor may conduct inquiries and investigations into the affairs of the city and shall have such other powers and duties as may be provided by ordinance not inconsistent with this charter.

SECTION 3.03 City Recorder-appointment and duties. The mayor shall appoint, and the board shall confirm, the city recorder. The recorder shall have the following powers and duties, or such other powers and duties as may be provided by ordinance not inconsistent with this charter:

(1) To keep and preserve the city's seal and all official records not required by law or ordinance to be filed elsewhere;

(2) To attend all meetings of the Board and to maintain a journal showing the proceedings of all such meetings, the mayor and aldermen present and absent, each motion considered, the title of each resolution and ordinance considered, and the vote of each alderman on each question. This journal shall be open to the public during regular office hours of the city subject to reasonable restrictions exercised by the city recorder;

(3) To have custody of and preserve in the office designated by the board for that purpose, the general and fiscal records of the city and keep an accurate and modern index to them;

(4) To provide and certify copies of city records, and to provide to the public copies of ordinances and resolutions and other public records. Fees for such services may be established by ordinance, to be deposited into the city treasury;

(5) To serve as head of the department of finance and taxation;

(6) To exercise general supervision, under the direction of the mayor, over the fiscal affairs of the city and over all the city's property, assets and claims, and do so in accordance with modern and accepted accounting practices and procedures, subject to such rules and

regulations as are prescribed by the board consistent with such practices and procedures;

(7) To issue checks, provided that such checks are countersigned by the mayor. Both the recorder and the mayor may delegate in writing their authority to sign checks to other municipal officers or employees when not available;

(8) To immediately notify the board of any delinquent taxes, fees, license renewals, or any other levy that may come to his attention; and

(9) To perform other duties prescribed by the board that are not imposed upon any other officer under this charter.

SECTION 3.04. City Attorney--Appointment and duties. The mayor, at the first meeting after each election, shall appoint, and the board shall confirm, a city attorney, and such assistant city attorneys as may be authorized by ordinance. The city attorney, or an assistant city attorney designated by the board, shall be responsible for representing and defending the city in all litigation in which the city is a party; attending meetings of the board as required by the board; advising the board and other officers and employees of the city concerning legal aspects of their duties and responsibilities; approving as to form and legality all contracts, deeds, bonds, ordinances, resolutions, motions, and other official documents; and performing such other duties as may be prescribed by the board.

SECTION 3.05. Officers and employees--salaries. Only the offices and positions of employment provided for in the annual budget, or as specifically approved by the board shall be filled. Salaries for all positions shall be in accordance with a pay plan adopted by ordinance at the beginning of the fiscal year. In determining salaries, due consideration shall be given to duties, responsibilities, technical knowledge and skill required to satisfactorily perform the work, and availability of persons having the qualifications desired.

SECTION 3.06. Employees-appointment, promotion and term, etc. The board may adopt personnel rules and regulations governing the appointment, promotion, term and other employment conditions of the employees of the city. However, all employees shall be employees at will, including the chief of police and fire chief. Employees shall be removed for cause, or for no cause, at the discretion of the board.

SECTION 3.07. Oath of office. Before a person takes any office in the city government, he shall subscribe to the following oath or affirmation, administered by a magistrate, judge, the mayor or the city recorder or by any other person authorized by law to administer oaths.

"I solemnly swear (or affirm) that I will support the Constitution and will obey the laws of the United States and of the state of Tennessee, that I will in all respects, observe the provisions of the charter and ordinances of the City of Jellico, and that I will faithfully discharge the duties of the office of _____."

SECTION 3.08. Official bonds. The mayor, recorder, and every officer, agent, and employee of the city having duties embracing the receipt, disbursement, custody, or handling of money, and other officers and employees designated by the board, shall give a fidelity bond or faithful performance bond, as determined by the board, with some surety company authorized to do business in the state of Tennessee as surety, in such amounts as shall be

prescribed by the board. All such bonds and sureties thereto shall be subject to approval by the board. The cost of such bonds shall be paid by the city. Such bonds shall be blanket bonds covering offices and positions to be bonded, and individual bonds may be secured only when blanket bonds are not obtainable.

SECTION 3.09. Political activity prohibited. Employees of the city may individually exercise their right to vote and express their political views as citizens. However, employees may not engage in any political activity while at work, in a city vehicle, or in uniform. Employees may not run for election to the board.

ARTICLE IV

FISCAL ADMINISTRATION

SECTION 4.01. Fiscal year. The fiscal year of the city government shall begin on the 1st day of July and shall end on the 30th day of June of the succeeding year, unless otherwise provided by ordinance.

SECTION 4.02. Mayor to submit annual budget. Not later than forty-five (45) days prior to the beginning of each fiscal year, the mayor shall submit to the board a proposed budget, prepared in cooperation with finance committee and the head of the department of finance, for the next fiscal year, showing separately for the general fund, each utility, and each other fund the following:

- (1) Revenue and expenditures during the preceding year;
- (2) Estimated revenue and expenditures for the current fiscal year;
- (3) Estimated revenue and recommended expenditures for the next fiscal year, not to exceed the amount of estimated revenue;
- (4) A comparative statement of the cash surplus (or deficit) at the end of the current fiscal year; and
- (5) Any other information and data, such as work programs and unit costs, in justification of recommended expenditures that may be requested by the board. The budget shall be accompanied by a message containing a statement of the general fiscal policies of the city, the important features of the budget, explanation of major changes for the next fiscal year as compared with the current fiscal year, a general summary of the budget, and such other comments and information as may be deemed pertinent. A sufficient number of copies of the message shall be reproduced to furnish a copy to any person desiring one. A copy of the budget in full shall be filed with the city recorder for public inspection and a copy shall be furnished to each alderman.

SECTION 4.03. Capital improvement budget. A capital improvement budget shall be prepared to include a description of projects recommended for the ensuing year. The capital improvement budget shall be reviewed by the local planning commission, and the recommendations of the planning commission shall be submitted by the mayor to the board concurrently with the annual budget. The board may accept, reject or revise the capital improvement budget as it deems desirable.

SECTION 4.04. Public hearing. After receiving the proposed budget, the board shall fix a time and place for a public hearing thereon, and shall cause a public notice thereof and an announcement of where and when the full budget may be examined to be published two (2) times in a newspaper of general circulation in the city, the last such publication to be at least ten (10) days in advance of the date of the hearing. The public hearing shall be held before the Board at the stated time and place, and all persons present shall be given a reasonable opportunity to be heard.

SECTION 4.05. Action by Board on budget - emergencies; amendments; reallocation; monthly report by mayor. After the public hearing and before the beginning of the ensuing fiscal year the board shall adopt an appropriation ordinance, based on the mayor's proposed budget with such modifications as the board considers necessary or desirable. The board shall not make an appropriation in excess of estimated revenue, except to provide for an actual emergency threatening the health, property or lives of the inhabitants of the city declared by a vote of all members of the board. If emergency conditions prevent the adoption of an appropriation ordinance before the beginning of the new fiscal year, the appropriations for the last fiscal year shall become the appropriations for the new fiscal year, subject to amendment as provided in this section, and approved of a continuing resolution. Amendment may be made to the original appropriation ordinance at any time during a current fiscal year after ten (10) days notice published in the newspaper and a public hearing before the board. Appropriations, except emergency appropriations as provided above, may be increased during the year only after the mayor certifies in writing that a sufficient amount of unappropriated revenue will be available. With the consent of the board which has been duly entered upon the minutes thereof, funds may be reappropriated, reallocated or reobligated between departments, activities or agencies within a single fund account. Transfers of funds between fund accounts, not to exceed the original total appropriations of all funds, may be made by resolution. Any portion of an annual budget remaining and unencumbered at the close of the fiscal year shall lapse and be subject to appropriation for the following year. Any balance remaining in any fund other than the general fund at the end of the fiscal year may remain to the credit of such fund and be subject to further appropriation. At the end of each month the city recorder shall submit to the board a budget report showing revenue receipts, encumbrances and expenditures for the month and for the fiscal year to the end of that month.

SECTION 4.06. Control of expenditures. The mayor and the city recorder shall be responsible for controlling expenditures of the various agencies of the city government to accomplish maximum efficiency and economy. No expenditures shall be made in excess of appropriations.

SECTION 4.07. Centralized purchasing. Purchases or contracts of more than five hundred dollars (\$500) shall require prior approval of the board, and except for minor items used infrequently or items which must be obtained immediately to avoid disruption of services, shall be subject to competitive bid, subject to such regulations as may be provided by ordinance. Any expenditure or contract for more than five thousand dollars (\$5,000) shall be made only after sealed bids have been invited. Purchases and contracts shall be awarded to the lowest responsible bidder, but all invitations to bid shall state that the city reserves the right to reject any and all bids. The board may waive the requirements to obtain bids when there is only one (1) source of supply or when such action is in the best interest of the city, providing the reasons for any such waiver are made a matter of record. Bid records shall be preserved for a period

of not less than two (2) years. Bids need not be taken for professional services and services for which the rates or prices are regulated by public authority, nor shall competitive bidding be required for purchases from other governmental agencies.

SECTION 4.08. Unauthorized contract or expenditure. Any contract or agreement made in violation of the provisions of this charter or ordinances of the city shall be void and no expenditure shall be made thereunder. Every officer and employee who shall knowingly make or participate in any such contract or agreement, or authorize or make any expenditure thereunder and their sureties on their official bonds, and every person who shall knowingly receive such a payment, shall be jointly and severally liable to the city for the full amount so paid or received. A violation of this section by any officer or employee shall be cause of his removal.

SECTION 4.09. Sale of city property. The mayor may, with prior approval of the board, sell city property which is obsolete, surplus, or unusable after advertisement in a local newspaper requesting sealed bids or directing a public auction; provided, however, that any sale of real estate shall be subject to approval by the board.

SECTION 4.10. Annual audit. Within thirty (30) days after the beginning of each fiscal year the board shall employ an independent, certified public accountant to make an audit of all financial records of the city for that year. The auditor shall perform adequate sampling to determine validity of the records. Each such audit shall include determination of legality of transactions, mathematical accuracy of records, complete accountability, and application of accepted municipal accounting principles. It shall be made in accordance with generally accepted auditing standards and in conformity with generally accepted accounting principles and any applicable state and/or federal audit guidelines. The audit shall be completed and a report, including a summary for publication, shall be submitted to the Board within ninety (90) days after the end of the fiscal year.

SECTION 4.11. Bonds for public works contracts. Each bid on a contract for any public works or improvement shall be accompanied by a cash or surety company bid bond in the amount of five percent (5%) of the amount of the bid. Before any contract is awarded, the contractor shall give a bond for the faithful performance of the contract, with a surety company authorized to transact business in Tennessee, in an amount equal to one hundred percent (100%) of the contract price. The Board may waive these requirements for contracts under five thousand dollars (\$5,000). A payment bond shall be required for all contracts exceeding twenty-five thousand dollars (\$25,000).

SECTION 4.12. Property taxes. All property subject to taxation shall be subject to the property tax levied by the county. The board shall use county assessments and assess all property subject to taxation except property assessed by the Tennessee Regulatory Authority.

SECTION 4.13. Omitted property. If county assessments are used, the city recorder shall add to the assessment rolls any taxable property that may have been omitted by the county assessor. Such property shall be appraised and assessed at the same ratio as other property of the same class located in the city.

SECTION 4.14. Tax levy. The board shall make a tax levy, expressed as a fixed rate per one hundred dollars (\$100) of assessed valuation, not later than ninety (90) days prior to the tax due date. In event of the board's failure to do so, the prior year's rate shall continue in effect.

SECTION 4.15. Tax due dates and tax bills. The due dates of property tax shall be fixed by ordinance and provisions may be made for equal or semiannual installments. The city shall send two (2) bills to taxpayers, showing the assessed valuations, amounts of taxes due, tax due dates, and information as to delinquency dates and penalties. Failure to send tax bills shall not, however, invalidate any tax, penalty, or interest thereon. Property taxes shall become delinquent thirty (30) days after a due date, at which time such taxes shall be subject to interest at the rate of one and one-half percent (1-1/2%) for each month or fraction thereof until paid. On and after the date when such taxes become delinquent, the tax records of the city shall have the force and effect of a judgment of a court of record.

SECTION 4.16. Delinquent taxes. The board may provide by ordinance for the collection of delinquent taxes by distress warrants issued by the mayor for the sale of goods and chattels to be executed by any police officer of the city under the laws governing execution of such process from a magistrate; or, by the county trustee as provided by general law; or, by the city attorney acting in accordance with general laws providing for the collection of delinquent city or county taxes; or, by garnishment; or, by suits in chancery; or, by any two (2) or more of the foregoing methods, or by the use of any other available legal processes and remedies. If not otherwise collected, the city attorney or other attorney designated by the board, shall file suit for collection of all delinquent taxes.

SECTION 4.17. Taxes not to be excused. No officer or employee of the city shall have the authority to excuse taxes, penalties, interest, special assessments, or other charges due the city, but errors may be corrected when authorized by the board.

SECTION 4.18. Disbursements by checks. All disbursements, except for any agency of the city administered by a board or commission, shall be made by checks signed by the city recorder or mayor or as provided herein.

SECTION 4.19. Official depository. The board shall designate an official depository or depositories for deposit and safekeeping of funds of the city with such collateral security as may be deemed necessary by the board.

SECTION 4.20. Accounting. The financial records of the city will be established and maintained in general conformity with the accounts and procedures recommended by the office of the Comptroller, State of Tennessee, the Government Finance Officer's Association, or other nationally recognized authority on municipal accounting.

ARTICLE V

INTERGOVERNMENTAL COOPERATION AND CONTRACTING

SECTION 5.01. Intergovernmental cooperation and contracts. In addition to other powers granted in this charter, the board shall have power to contract and cooperate with any other municipality or other political subdivision of the state, or with an elective or appointive official thereof; or with any duly authorized

agency of the federal or state government, for the exercise of any power or function which the city is authorized to undertake by this charter.

SECTION 5.02. Execution of such powers. The board may exercise the powers conferred in this article by ordinance or resolution setting out the terms to be included in any such contract or cooperative action, and any of them may acquire, by gift or purchase, or by power of eminent domain exercised by one (1) or more of the parties, the lands, buildings, and other property necessary or useful for the purpose of the contract or cooperative action, either within or without the corporate limits of one (1) or more of the contracting parties, and shall have the power to hold or acquire such property jointly. The city may provide for the financing of its share or portion of the cost or expenses of such a contract or cooperative action in the same manner as if it were acting alone and on its own behalf.

Such a contract also may provide for the establishment and selection of a joint commission, officer or officers to supervise, manage, and have charge of joint services or projects and may provide for the powers and duties, terms of office, compensation, if any, and other provisions relating to the members of such joint commission, officer or officers. Such contract may include and specify terms and provisions relative to the termination or cancellation of the contract or cooperative action by ordinance or resolution, and the notice, if any, to be given of such termination or cancellation. Such cancellation or termination shall not relieve any party participating in such contract or cooperative action from any obligation or liability for its share of the cost or expense incurred prior to the effective date of any such cancellation or termination.

SECTION 5.03. Immunity and liabilities of officers. All public officers acting under the authority of a contract or undertaking cooperative action under the provisions of this article shall enjoy the same immunities and be subject to the same liabilities as if they were acting entirely within the territorial limits of their respective governmental units.

SECTION 5.04. Handling of funds. All money received pursuant to any such contract or cooperative action, under the provisions of this article, unless otherwise provided by law, shall be deposited and disbursed in accordance with the provisions of such contract or cooperative action.

ARTICLE VI

MISCELLANEOUS PROVISIONS

SECTION 6.01. Other general laws may be used by the city. Notwithstanding any provisions of this charter, the board may by ordinance elect to operate under or adopt any general law or public act available to municipalities of the state in lieu of, or in addition to, provisions of this charter. Nothing in this charter shall be construed as having the effect of altering the salary of any incumbent prior to the end of the term for which such public officer was elected.

SECTION 2. This act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Jellico. Its approval or nonapproval shall be proclaimed by the presiding officer of the City of Jellico and certified to the secretary of state.


SECTION 3. For the purpose of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved as provided in Section 2.

PASSED: June 26, 2002


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 3rd day of July 2002


DON SUNDQUIST, GOVERNOR